

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION**

FRANK OBIMPEH,

Plaintiff,

v.

**ALEJANDRO MAYORKAS,
Secretary of U.S. Department
of Homeland Security, *et al.*,**

Defendants.

Case No. 2:22-cv-01846

Judge Edmund A. Sargus, Jr.

Magistrate Judge Kimberly A. Jolson

ORDER

This matter is before the Court on Plaintiff's Motion for Default Judgment Against Defendants Alejandro Mayorkas, Ur M. Jaddou, and Merrick Garland. (ECF No. 10). Federal Rule of Civil Procedure 55 "contemplates a two-step process in obtaining a default judgment against a defendant who has failed to plead or otherwise defend." *Columbus Life Ins. Co. v. Walker-Macklin*, No. 1:15-cv-535, 2016 WL 4007092, at *2 (S.D. Ohio July 26, 2016). First, a plaintiff must request an entry of default from the Clerk of Courts. Fed. R. Civ. P. 55(a). Second, after the Clerk's entry of default, the plaintiff may obtain a default judgment. Fed. R. Civ. P. 55(b).

Here, Plaintiff applied to the Court for default judgment against Defendants under Rule 55(b)(2). Upon motion from the Plaintiff stating that Defendants had been properly served and failed to defend, the Clerk of Courts entered a default against the Defendants. Because Defendants were never properly served, the entry of default against Defendants was entered in error and was subsequently vacated. Therefore, plaintiff does not have a valid default on which he can move for default judgment.

Accordingly, Plaintiff's Motion for Default Judgment (ECF No. 10) is **DENIED WITHOUT PREJUDICE.**

IT IS SO ORDERED.

9/15/2023

DATE

s/Edmund A. Sargus, Jr.

EDMUND A. SARGUS, JR.

UNITED STATES DISTRICT JUDGE